

REMARKS

Claims 1-2 and 4-8 remain pending in the above-identified application, and stand ready for further action on the merits.

Non-Complaint Standard

The Examiner issues a Notice of Non-Compliant Amendment in relation to applicants' prior response of July 2, 2007.

The Notice states that for a response to be non-compliant it must be deficient with respect to one or more aspects of 37 CFR 1.121 or 37 CFR 1.4.

The Examiner raises no issue with regard to any omission regarding 37 CFR 1.4.

The sole omission appears to pertain to the provisions of 37 CFR 1.121, which pertains to the "Manner of Making Amendments in Applications" – i.e., the manner by which either the specification or claims are amended, including the recitation against the presentation of new matter.

In this regard, the Examiner raises two issues: (1) the amendments to claim 1 "do not properly show the changes made to the previously pending text thereof to arrive at the proposed text, see lines 1 and 17."

The Examiner also makes reference to lines 12-15 of claim 1, and the last three lines at page 5 in claim 5 which state "that the members in the diaper are in a stretched state", while the specification states that the members "are fixed in a stretched state to maintain contractibility". The Examiner thus questions where support resides for the referenced language of claim 5.

Response to Non-Compliant Notice

In response to the Notice of Non-Compliant amendment, applicants have carefully reviewed claim 1 to maintain proper correspondence with the previous claim 1 which was amended. It is now believed that claim 1 as presented properly includes all amendments made thereto.

In further response, claims 1 and 5 are amended to recite the phrase “fixed in a stretched state” consistent with the disclosure.

In view of the amendments which the Examiner requires be made in claims 1 and 5, the above set of claims is not a “replacement” set of claims per se, but instead amends those claims presented in applicants’ prior response.


In view of the above, applicants believe that the instant claims are in condition for examination, and favorable consideration of same is requested.

Based upon the amendments and remarks presented herein, the Examiner is respectfully requested to issue a Notice of Allowance clearly indicating that each of the pending claims are allowed and patentable under the provisions of Title 35 of the United States Code.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John W. Bailey (Reg. No. 32,881) to expedite prosecution in connection with the present application towards allowance.

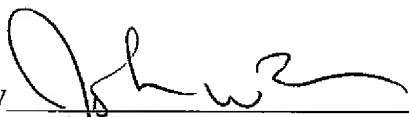
Payment in the amount of \$460.00 is submitted herewith as payment for the requested two month extension of time.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated  December 17, 2007

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 
John W. Bailey
Registration No.: 32,881
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road, Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant